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EXAMINER

DIXON, THOMAS A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/551,519	KOHAVI ET AL.
	Examiner	Art Unit
	Thomas A. Dixon	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 November 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 1/2.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 10 October 2000 has been considered by the examiner.

### ***Specification***

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

### ***Claim Objections***

3. Claims are objected to because of the following informalities:

The claims should be commencing on a separate sheet.

Claim 3 lacks a period at the end.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 7, 8, 10 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, lacks a period at the end, and is therefore indefinite,

Regarding claims 7, 10, 18, the word "compilated" is not a word and is therefore indefinite,

Regarding claims 8, 29, the phrase "or other data/telecommunications based communications mediums" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 101***

5. Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Specifically, a claim directed to or including within its scope a human being will not be considered to be patentable subject matter under 35 USC § 101, *In re Wakefield*, 422 F.2d 897, 165 USPQ 636 (CCPA 1970).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-19, 21, 26 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMarcken (6,377,932).

As per Claim 1.

DeMarcken ('932) discloses:

one or more offerings of products from one or more vendors, said offerings including at least one of: price, time restrictions, use restrictions, class, availability, rules or descriptions, see figure 22;

computerized storage retaining said one or more offerings of products, see column 4, lines 1-16;

computerized intelligent compilation of packages comprising selected ones of said one or more offerings of products, said compilation based on a congruency matching criteria comprising any of: geographic distributions, time considerations, cost, defined restrictions, intelligent agents, and distribution channel limitations, see figure 22;

computerized package cost determination including any of: summation of individual costs of products include in said compiled package, commissions, discounts, and special promotional items, see figure 25;

an interface for entering one or more search requests for possible packages, see figure 21; and

wherein said compilation is performed partially or wholly before said request for possible packages or interactively during said request, see column 58, line 48 – column 59, column 4.

As per Claim 2.

DeMarcken ('932) further discloses the products include one or more travel related items, see column 4, lines 61-67.

As per Claim 3.

DeMarcken ('932) further discloses the products include one or more airline seating, hotel rooms, car rentals, and auxiliary travel support items, see column 4, lines 61-67.

As per Claim 4.

DeMarcken ('932) further discloses the user searches for possible packages based on a match to desired criteria, see column 4, lines 33-38.

As per Claim 5.

DeMarcken ('932) further discloses a purchase option for a selected package, see column 5, lines 7-12.

As per Claim 6, 13.

DeMarcken ('932) further discloses booking actual reservations, see column 5, lines 7-12.

As per Claim 7, 10, 15, 18.

DeMarcken ('932) further discloses dynamically reformulates said compilation of packages based on the availability of said vendor offered products, see column 4, lines 46-49 and 61-67.

As per Claim 8, 11, 16, 23.

DeMarcken ('932) further discloses components located locally or remotely are connected by any of: computer-based networks, LANs, WANs, cellular, wireless, internet, WWW, satellite or other data/telecommunications based communication mediums, see column 4, lines 39-54.

As per Claim 9, 17.

DeMarcken ('932) discloses:

one or more offerings of products from one or more vendors, said offerings including at least one of: price, time restrictions, use restrictions, class, availability, rules or descriptions, see figure 22;

computerized storage retaining said one or more offerings of products, see column 4, lines 1-16;

computerized intelligent compilation of packages comprising selected ones of said one or more offerings of products, said compilation based on a congruency matching criteria comprising any of: geographic distributions, time considerations, cost, defined restrictions, intelligent agents, and distribution channel limitations, see figure 22;

computerized package cost determination including any of: summation of individual costs of products include in said compiled package, commissions, discounts, and special promotional items, see figure 25;

an interface for entering one or more search requests for possible packages, see figure 21;

a purchase option for a selected package, see column 5, lines 7-12;

a booking mechanism to finalize reservations, see column 5, lines 7-12.

As per Claim 12.

DeMarcken ('932) discloses:

retrieving one or more offerings of products from one or more vendors, said offerings including at least one of: price, time restrictions, use restrictions, class, availability, rules or descriptions, see figure 22;

retaining said one or more offerings of products in computer storage, see column 4, lines 1-16;

compiling travel packages comprising selected ones of said one or more offerings of products, said compilation based on a congruency matching criteria comprising any of: geographic distributions, time considerations, cost, defined restrictions, intelligent agents, and distribution channel limitations, see figure 22;

receiving one or more search requests for possible packages, see 4, lines 33-38 and figure 21;

presenting possible packages meeting a requestors criteria, see figure 22; determining a total cost including any of: summation of individual costs of products include in said compiled package, commissions, discounts, and special promotional items, see figure 25; processing payment of one or more selected package, see column 5, lines 7-12.

As per Claim 14, 19.

DeMarcken ('932) further discloses said compilation is performed partially or wholly before said request for possible packages or interactively during said request, see column 58, line 48 – column 59, column 4.

As per Claim 21.

DeMarcken ('932) further discloses selecting based on a query, which implies removing packages which do not meet the restrictions of the query, see column 4, lines 39-60.

As per Claim 26.

DeMarcken ('932) further discloses requestor travel criteria includes one or more of: when, where, types of activities, price and luxury level, see column 4, lines 33-38.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20, 22, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMarcken (6,377,932) in view of Acebo et al (6,923,679).

As per Claim 20.

DeMarcken ('932) further discloses a requestor, see column 4, lines 33-38.

DeMarcken ('932) does not specifically disclose the requestors are travel agents, distributors or individual requestors.

Acebo et al ('679) teaches the requestors are travelers or agents, see figure 5 for the benefit of providing travel services.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made that the requestor of DeMarcken ('932) could be a traveler or an agent, as taught by Acebo et al ('679) for the benefit of providing travel services.

As per Claim 22, 28.

DeMarcken ('932) does not specifically disclose the financial transaction mechanism includes a commission element.

Acebo et al ('679) teaches a commission element meeting a commission schedule of a distribution channel that issued the search request, see figures 5, 13 and 15 for the benefit of paying agents for their efforts on behalf of travelers.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a commission element in the financial transaction mechanism of DeMarcken ('932) as taught by Acebo et al ('679) for the benefit of paying agents for their efforts on behalf of travelers.

8. Claims 24, 25, 27, 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMarcken (6,377,932) in view of Official Notice.

As per Claim 24, 27, 30.

DeMarcken ('932) does not disclose the defined restrictions of the claim.

Official Notice is taken that it is old and well known in the travel arts to for airlines to restrict travel, such as black out periods when discounts cannot be used or Saturday night stayovers as supplier methods to manipulate travelers purchases.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to take defined restrictions into consideration when planning a travel itinerary for the benefit of offering travelers only options for which they qualify.

As per Claim 25.

DeMarcken ('932) does not disclose the distributor's control of packages as claimed.

Official Notice is taken that it is old and well known in the retail arts to push (include/exclude) products from certain companies based on the commission offered for the benefit of maximizing agent income and exclude the commission that should be added to the final price if an agent is the customer for the benefit of encouraging agents to visit/push specific travel destinations.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include/exclude certain products or exclude commission from the final price for the benefit of increasing agent loyalty to a particular distributor.

As per Claim 29.

DeMarcken ('932) discloses:

determining available travel products from an inventory, based on any of: historical data, price, class, demand, time before use, type, see figure 22;

offering said determined travel products to a centralized travel packaging system, located across computer based networks, LANs, WANs, cellular, wireless, Internet, WWW, satellite, or other data/telecommunications based communication mediums, see column 4, lines 39-54;

receiving confirmed reservations from said centralized travel packaging system, said reservations included in one or more selected travel packages stored within a travel packages database as determined by intelligent matching and compilation mechanism retained within said travel packaging system, see column 5, lines 7-12;

wherein said uncommitted travel products are committed by acceptance of said actual reservations, , see column 5, lines 7-12;

DeMarcken ('932) does not disclose placing restrictions one or more travel products.

Official Notice is taken that it is old and well known in the travel arts to for airlines to restrict travel, such as black out periods when discounts cannot be used or Saturday night stayovers as supplier methods to manipulate travelers.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to take defined restrictions into consideration when planning a travel itinerary for the benefit of offering travelers only options for which they qualify.

As per Claim 31.

DeMarcken ('932) further discloses dynamically reformulates said compilation of packages based on the availability of said vendor offered products, see column 4, lines 46-49 and 61-67.

As per Claim 32.

DeMarcken ('932) further discloses said centralized travel packaging system receives on or more of said determined travel products from a plurality of travel product vendors, see figure 23 (384).

#### ***Prior Art made of Record***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WO 97/32268 to Griebenow is the closest foreign art that teaches a system for identifying low cost travel arrangements.

Worldspan is the closest non-patent literature that teaches a reservation system for leisure travel, but does not disclose all the limitations of the claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Thomas A. Dixon  
Examiner  
Art Unit 3629

January 3, 2003